

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RANDALL J. LINDENBERGER,
Plaintiff,

vs.

COMMISSIONER OF
SOCIAL SECURITY,
Defendant.

Case No. 1:13-cv-380

Weber, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

Plaintiff, proceeding pro se, initiated this Social Security appeal in June 2013. On September 13, 2013, defendant filed a motion to dismiss plaintiff's complaint regarding the denial of his application for Social Security Benefits. (Doc. 6). On September 20, 2014, this Court sent a Notice to plaintiff regarding his duty to respond to defendant's motion. (Doc. 8). Pursuant to S.D. Ohio Civ. R. 7.2(a)(2), a memorandum in opposition "shall be served and filed within twenty-one (21) days from the date of service set forth in the certificate of service attached to the Motion." To date, plaintiff has not filed a response to defendant's motion.

On March 27, 2014, this Court ordered plaintiff to show cause, in writing and within twenty-one (21) days, why defendant's motion to dismiss should not be construed as unopposed and granted for the reasons stated in the motion. (Doc. 9). This Order was sent via certified mail to plaintiff; the return receipt reflects that plaintiff received the Order on March 31, 2014. (Doc. 10). On April 22, 2014, plaintiff responded to the Court's Order to show cause. (Doc. 11). Plaintiff's response was handwritten on the certified mail receipt from the show cause Order and provides: "Sorry, Thought I lost this case and it was over long ago. Please Dismiss. Thanks! Randy." (*Id.*).

The Court construes plaintiff's response to the show cause Order as a motion to voluntarily dismiss his claims against defendant. The Court therefore **RECOMMENDS** that

plaintiff's motion to dismiss his lawsuit in its entirety (Doc. 11) be **GRANTED** and that this matter be closed on the docket of the Court.

Date: April 23, 2014

s/Karen L. Litkovitz
Karen L. Litkovitz
United States Magistrate Judge

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NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO R&R

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).